

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**



ADVISORY OPINION NO. 230

This advisory opinion is in response to a request for advice from the Ethics Commission [Commission] as to whether soliciting campaign contributions under certain circumstances violated the City's Standards of conduct.

The Commission understands the facts relative to the inquiry to be as follows:

A city manager [manager] is also co-chair of the election committee of an elected city official.

On (date), in response to the manager's request to disseminate the information, the campaign committee telephoned departmental secretaries during the City's working hours to notify them that a meeting would be held at campaign headquarters the following afternoon at 5:00 p.m. Appointees were asked to attend that meeting, and the departments were asked to notify the applicable employees accordingly. The secretaries were not cautioned to avoid disseminating this information during City working hours.

The next afternoon, the manager presided over the meeting at the campaign headquarters. At the session, cards were distributed to those in attendance. These cards had the employee's name on the top line, followed by a line entitled "total" beside which a dollar amount had been written. A third line was entitled "amount paid," and the fourth line was entitled "balance due." The checks were to be made to the campaign committee. At the meeting some of those in attendance indicated that paying the "total" would create a hardship for their families. The manager then indicated that the amount could be paid in install-ments. He also indicated that if employees still felt unable to contribute the full amount, they should come and talk to him about their situations.

The supervisors of all invited employees who were absent from the meeting were given their subordinates' cards to be distributed the following day. The supervisors were not cautioned to refrain from distributing the absentees' cards on City time or property, and at least one card was distributed on City time and property.

Prior to the meeting, the manager requested from the city's personnel department a listing of all employees who are appointees and their salaries. He then used that

salary information to calculate the amount listed on each card as the "total" to be contributed.

The ethical question presented is whether the campaign organization, through the manager or at his discretion, violated the Fair and Equal Treatment provisions of the Standards of Conduct of the City and County of Honolulu.

The general rule in relation to the question is found in the Revised Charter of the City and County of Honolulu 1973 (1984 Ed.) [RCH] Section 11-104, which states as follows:

Elected or **appointed officers** or employees **shall not use their official positions to secure** or grant **special** consideration, treatment, **advantage**, privilege or exemption to themselves or any person **beyond that which is available to every other person** (emphasis added).

Based on the evidence presented, the Commission finds that the manager violated or caused others to violate RCH Section 11-104 several times on behalf of the campaign at issue. First, other candidates do not have the ability to use employees of the City and County of Honolulu on office time and City property to communicate information about campaign meetings. Second, only some of the information the manager received from the personnel department is public information. A person outside the current administration would be unable to find out the exact salaries of many of these employees. Third, the statement that appointees who are unable to make the "suggested" campaign contribution should talk with the manager, certainly could reasonably appear to be coercive. Fourth, at least one appointee was given his or her copy of the contribution card on City property during working hours. There may have been additional violations of RCH 11-104, but there is no question about these four having occurred.

The Ethics Commission realizes that these violations of the Standards of Conduct cannot be "undone." Therefore, we recommend that you promptly send out a letter to each person who was invited to attend the meeting at the campaign headquarters. The letter, prepared on your own time on campaign stationery, should be sent out using the U.S. Postal Service for delivery, rather than inter-office mail or distribution by key City employees on office time and property. The purpose of your written communication would be to apologize for any misunderstanding that may have occurred at the meeting, and to clarify that the contribution cards distributed with dollar amounts on them are only suggested **voluntary contributions** to the campaign. Further, the letter should clearly state that **no one's employment status will be affected in any way as a result of their contribution or lack of contribution** to the campaign. We also request that the fact that each letter is being copied to the Ethics Commission be noted therein. However, we would be willing to receive one actual copy of the letter and an attached list of all persons to whom the letter was sent.

Dated: August 19, 1993

BONIFACE K. AIU
Chair, Ethics Commission